THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20722 of 2005

27.9.2005

Between:

P.Shankar, S/o.Anjaiah, Vice-President, Mandal Parishad,

Ibrahimpatnam Mandal & MPTC Member, Seriguda Village,

Ranga Reddy District.

… Petitioner

AND

1. The Union of India, rep. By its Principal Secretary,

Ministry of Rural Development, New Delhi

And others

… Respondents

ORDER:

The petitioner is Vice President of Mandal Parishad, Ibrahimpatnam Mandal, Ranga Reddy District. He filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents herein, namely, Union of India represented by its Principal Secretary, Ministry of Rural Development, New Delhi, Chief Executive Officer, Zilla Parishad (CEO), Mandal Development Officer, (MDO) Ibrahimpatnam Mandal and President, Mandal Parishad, Ibrahimpatnam Mandal, in not allotting any funds to Seriguda village as illegal and arbitrary, and consequently declare the proceedings of the second respondent i.e., CEO dated 30.2.2005 as illegal and arbitrary.

The petitioner alleges that Union of India has introduced a scheme known as Sampoorna Grameena Rozgar Yojana (SGRY) with a view to provide additional/supplementary wage employment, provide food security, improve nutrition levels in rural areas, develop infrastructure, and create durable, community, social and economic assets. Under the said scheme, an amount of Rs.Ten thousand Crores, in terms of cash and foodgrains was allotted to the States and Union Territories on the basis of proportionate rural poor of respective States. As per the scheme, the allocation of funds at District level should be made on the index of backwardness formulated on the basis of proportionate rural SC/ST population in the District to the SC/ST population in the State and inverse of per capita production. Within the District while distributing funds to the Village Panchayats, 60% weightage is given to the SC/ST population and 40% to the population of the Village Panchayat and total foodgrains at the center. The distribution of funds is to be made among Panchayats, Panchayat Samithis and Village Panchayats in the ratio of 20%, 30% and 50% respectively. It is alleged that Ibrahimpatnam Mandal was allotted a sum of

Rs.18,37,825/- in cash and 130.71 MT of rice for the year 2005-2006. There are 22 Gram Panchayats in Ibrahimpatnam Mandal represented by seventeen MPTC Members, but the CEO allotted funds only to fifteen Gram Panchayats neglecting other Gram Panchayats though the Ibrahimpatnam Mandal is declared as a drought hit area. Though 22 Gram Panchayats were allotted funds during the year 2004-2005, no funds are allotted to the petitioner Gram Panchayat. The action of the respondents showing discrimination towards Seriguda Gram Panchayat is violative of principles of natural justice and against constitutional provisions.

Heard the learned Counsel for the petitioner, who reiterated the affidavit averments strenuously. After hearing the learned Counsel, this Court is of the view that a writ petition of this nature is not maintainable for the brief reasons as below.

Even according to the petitioner during the financial year 2004-2005, Seriguda village was allotted funds for internal road at Chintapalliguda. A reading of the proceedings dated 07.6.2004 issued by MDO would show that the allotment of funds were made for 22 Gram panchayats under SGRY scheme as per allocation of material component. For the year 2005-2006, however, the MDO, Ibrahimpatnam Mandal submitted proposals for sanction of 32 works under USGRY and the funds are not allotted under SGRY scheme. Therefore, no parity can be inferred in the matter of allocation for the year 2004-2005 and 2005-2006. Further, the procedure on the basis of which the MPDO or CEO allots funds can only be appreciated by reference to the scheme formulated by Union of India. Copy of the scheme is not placed before this Court. The grievance of the petitioner is that in the list of 15 Gram panchayats, the petitioner Gram panchayat was not included in the matter of allocation of funds. When the discrimination is alleged by reason of under-inclusion, even if the Court finds substance in the allegation, Mandamus cannot be issued to include that category which suffers from under-inclusion. However, in the case of over-inclusion, on the ground of discrimination, the Courts have struck down the legislation. This principle is well settled (see **Shakawath v. State of Orissa** and **B.R.Kapur v. State of Tamilnadu**).

The petitioner is the Vice-President of Mandal Parishad and as a representative of the people, he can always take up the issue in elected democratic bodies. In this writ petition, due to inherent limitation in the exercise of jurisdiction under Article 226 of Constitution of India, no relief can be granted.

The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S. RAO**,**J**)

September 27, 2005.

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